APPEAL NO. 022913
FILED DECEMBER 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on October 24, 2002. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. In his appeal, the claimant essentially argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury. The question of whether the claimant sustained a compensable injury was a question of fact for the hearing officer to resolve. The hearing officer could have found injury based on the claimant's testimony alone. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). However, she was not bound to accept his testimony. It only created an issue of fact for the hearing officer to resolve. From the hearing officer's discussion it is apparent that although it is undisputed that the accident occurred, she was not persuaded that the accident caused damage or harm to the physical structure of the claimant's body. And, as such, the claimant did not sustain his burden of proving that he sustained an injury within the meaning of that term for purposes of the 1989 Act. The hearing officer is the sole judge of the weight, credibility, relevance, and materiality of the evidence before her. Section 410.165(a). She was acting within her province as the fact finder in finding that the claimant did not sustain a compensable injury, damage or harm to the physical structure of the body, in the motor vehicle accident at work. Our review of the record does not reveal that the hearing officer's injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the determination that the claimant did not sustain a compensable injury, we likewise affirm the hearing officer's determination that he did not have disability. Disability means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Thus, the existence of a compensable injury is a prerequisite to a finding of disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

SD
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Michael B. McShane
Appeal Panel
Manager/Judge